

Applicant: Anderson et al.  
Appl. No.: 10/510,822

**REMARKS**

The Applicant thanks the Examiner for the careful consideration of this application. Claims 1-25 are currently pending. Claims 1 and 21 have been amended. New claims 22-25 have been added. Based on the foregoing amendments and the following remarks, the Applicant respectfully requests that the Examiner reconsider all outstanding rejections and that they be withdrawn. A fee transmittal is being submitted herewith in connection with the presentation of four additional dependent claims.

**Supplemental Application Data Sheet**

A Supplemental Application Data Sheet (ADS) is being submitted to correct the domestic priority data for this application, which was incorrectly stated in the original ADS for this application, but is stated correctly in the International Patent Application on which the current application is based. The Supplemental ADS indicates the correct U.S. filing date of **April 10, 2002** for U.S. Provisional Application No. 60/371,163, priority of which is claimed. The Applicant respectfully requests that the U.S. Patent and Trademark Office update its records to reflect this correction.

**Rejections under 35 U.S.C. § 101**

The Office Action rejected claims 1-21 under 35 U.S.C. § 101 as being directed to non-

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statutory subject matter. The Office Action appears to base this rejection on assertions that the claimed method is directed to the mere manipulation of abstract ideas, does not result in a physical transformation, and does not produce a useful, concrete, and tangible result. Claims 1, 11, and 21 are the independent claims. Claims 1 and 21 have been amended. The Applicant respectfully traverses this rejection for the following reasons.

In a recent decision, the Federal Circuit explained the law of Section 101 as follows, “[claims] combining the use of machines with a mental process, claim patentable subject matter.” In re Stephen W. Comiskey, No. 2006-1286, slip op. at 23-24 (Fed. Cir. Sept. 20, 2007). As explained below, independent claims 1, 11, and 21 expressly combine the use of machines with a mental process, and accordingly, claim patentable subject matter.

The method claims as filed explicitly, or implicitly, require the use of machines. For example, original claim 11 recites, *inter alia*, a method of using a space flight training facility. As recited by the claim, the facility comprises a **first apparatus** for simulating exterior space environments, a **second apparatus** for familiarizing the private customer with spacecraft interiors, and **medical evaluation equipment**; and the method involves steps for using each of these apparatuses. Therefore, claim 11, as originally presented, combines the use of machines with a mental process.

Solely to facilitate prosecution of this application, claims 1 and 21 have been amended in a non-limiting manner to expressly recite what was previously implicit in the claims. That is, claims 1 and 21 have been amended to expressly incorporate machinery into the claimed process. Specifically, claim 1 has been amended to expressly state that “the step of administering the

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space flight qualification program is performed, at least in part, using at least one of medical equipment and space flight related equipment.” Similarly, claim 21 has been amended to expressly state that “at least one of steps (c) to (f) is performed using, at least in part, space flight related equipment.” Examples of the recited “space flight related equipment” include, for example, a space flight suit, a spacecraft, a simulated spacecraft, a computer, software, a spacecraft component, a simulated spacecraft component, a hypobaric altitude chamber, and a centrifuge, as set forth by new claims 23 and 25.

As shown above, current independent claims 1, 11, and 21 claim patentable subject matter. Claims 2-10 and 12-20 depend from claims 1 and 11, respectively, and are directed to patentable subject matter for at least the same reasons as their respective independent claims. Accordingly, the Applicant respectfully requests that the rejection of claims 1-21 under 35 U.S.C. § 101 be withdrawn.

Rejections under 35 U.S.C. § 103

The Office Action rejected claims 1-21 under 35 U.S.C. § 103(a) as being obvious over the publication “SPACE ADVENTURES: Orbital Space Flight,” published by Incredible Adventures, which allegedly has an effective date of December 16, 2001. The Applicant respectfully traverses this rejection in view of the Declaration Under 37 C.F.R. § 1.131, submitted herewith.

The cited reference could only qualify as prior art under 35 U.S.C. § 102(a). However, the reference was not published before the date of invention by the Applicant, as required by 35

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U.S.C. § 102(a). Instead, as stated by the 1.131 Declaration, with corroborating evidence, the invention of at least independent claims 1, 11, and 21 was conceived by the presently named inventors, and reduced to practice, prior to December 16, 2001, the date of the cited reference. Accordingly, the Applicant respectfully submits that the publication “SPACE ADVENTURES: Orbital Space Flight” is **not** prior art to the present application. Therefore, the Applicant respectfully requests that the rejection of claims 1-21 based on the publication “SPACE ADVENTURES: Orbital Space Flight” be withdrawn.

### Conclusion

All of the stated grounds of objection and rejection have been properly traversed, accommodated, or rendered moot. Applicant, therefore, respectfully requests that the Examiner reconsider all presently outstanding rejections and that they be withdrawn. Applicant believes that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is hereby invited to telephone the undersigned at the number provided.

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Prompt and favorable consideration of this Amendment is respectfully requested.

Respectfully submitted,

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Enclosure: Declaration under 37 C.F.R. § 1.131 (with Exhibits A, B)

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